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09/803,360	03/12/2001	Werner Zagler	951/49628	4213

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EXAMINER

LIEU, JULIE BICHNGOC

ART UNIT

PAPER NUMBER

2632

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13

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 13

Application Number: 09/803,360  
Filing Date: March 12, 2001  
Appellant(s): ZAGLER, WERNER

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Jeffrey Sanok  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed March 17, 2003.

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**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

The rejection of claims 1-4 and 5-9 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

4203512C1

**(10) *Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

1. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 4203512C1 (cited by the applicant).

Claim 5:

DE 42 02 512 (herein after '512) discloses a system for facilitating entry into or out of a motor vehicle having at least one vehicle door, in which window is lowerable and closeable and to which an opening/closing detecting device is assigned, the system comprising:

- a. An unlocking device (release switch)
- b. A control device for controlling window actuator (inherent)

wherein the control device has inputs which receive a signal reflecting an unlock command and a signal which corresponds to a door opening or closing action, the control device operating the actuator to completely lower the window of the vehicle door when an unlock command has been received and the vehicle door has been opened simultaneously. See abstract.

The double unlock command is not used in '512. However, it would have been obvious to one skilled in the art to use double door release command as desired because it is only a choice in design to differentiate between functions. For example, vehicles with remote door lock/unlock functions used to unlock all doors upon the actuation of the unlock button once, but nowadays, a single unlock command would unlock the driver door and the use of a double unlock command is used to differentiate from the single unlock command to unlock all doors. Therefore, a skilled artisan would have used the double unlock command to allow to the system in '512 to recognize that additional function, other than to unlock the doors, is desired.

Claim 6:

It is not clear in '512 whether the control device operates the actuator to completely close the window of the vehicle door after the door is closed. Nonetheless, one skilled in the art would have readily recognized that most likely the window should be completely raised while the door is closed for safety reasons, such as theft or rain, unless it is desired to be lowered by the driver while operating the vehicle or for some particular purposes while the vehicle is parked.

Claim 7:

It is inherent that the system in '512 would have an anti-squeeze device which monitors the closing operating of the window.

Claim 8:

Though DE '512 does not include a remote door lock/unlock device, it is conventionally used nowadays with most vehicles. Therefore, it would have been obvious to one skilled in the art to modify the system in '512 to be used with a remote door lock/unlock device. All door unlock/lock remote control devices comprise a door command point.

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Claims 1-4:

The rejection of claims 1-4 recites the rejection of claim 5-8 except they are method claims.

Claim 9:

The rejection of claim 9 recites the rejection of claim 1, except it is a software which is inherently disclosed in '512 for the system to carry out those functions.

**(11) Response to Argument**

***Applicant's Remarks***

Argument 1:

The applicant has argued that the present inventions completely lowers the window vehicle door upon the occurrence (or detection) of both the double unlock command and the opening of the vehicle door. The applicant has asserted that DE '512 requires a separate and additional action by the user after opening the door to cause the lowering of the window.

Argument 2:

The applicant has submitted that on page 3 of the Office Action, the examiner maintains that DE '512 provides a control device to "completely lower the window of the vehicle door when an unlock command has been received and the vehicle door has been opened

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simultaneously”, which, the applicant asserts, is incorrect as shown in the right hand branch 12 of fig. 2.

The applicant has pointed out that the window in the present invention is lowered immediately when the user signals the opening of the vehicle door, such as by moving the door handle while DE ‘512 disclose a delay period of one minute after the door handle has been operated.

Argument 3:

Regarding claim 7, the applicant has argued that the examiner has made a prima facie case of obviousness but insufficiently alleges inherence with respect to such feature.

***Response to Applicant’s Remarks***

Response to argument 1:

It is submitted that the independent claims state, e.g. claim 9, that the window is lowered upon the occurrence of both the unlock command and the opening of the vehicle door either simultaneously or subsequently. DE ‘512 discloses the same thing (except for the double unlocking command which was explained in the rejection). In other words, the system in DE ‘512 lowers the window when it detected that an unlock command has been received and the door has been opened (that is, the door handle is actuated) simultaneously (that is, both signal must be present). Especially, with the time delay associated with the door and the lowering of the window, it is certain that the door in DE ‘512 window has been lowered when the door is

open. There is no separate and additional action by the user involved since the user only actuates the door handle. Moreover, the claim does not state that the window is lowered before the door begins to open. Therefore, the applicant's argument is not deemed persuasive.

Response to argument 2:

It should be noted that the claims of the present application fails to recite that the window has been completely lowered or lowered immediately when the user signals the opening of the door. The claims only states that the window is lowered upon the detection of the unlock command and the door has been opened. The term "completely lower the window" is interpreted, as the window will not stopped but continues to go to its completely open position limit.

Response to argument 3:

The examiner submits that since the specification of the present application fails to adequately disclose what an anti-squeeze device is in particular; therefore, any device the monitors the closing operation of the window is broadly interpreted as an anti-squeeze device. In this case, it is inherent that the system in DE '512 has an anti-squeeze because the window can only rise to a certain height.

For the above reasons, it is believed that the rejections should be sustained.



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Respectfully submitted,




Julie Lieu  
Primary Examiner  
Art Unit 2632

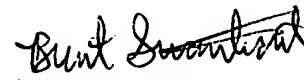
jl  
June 1, 2003

Conferees

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